IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY SECOND DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 15733 of 2005

Between:

M/s. Siva Stones, Rep. by its GPA holder Md. Riyaz S/o. Isaq Saheb, aged 38 yrs, 44, 1st 'A' Cross, Near Makri Circle, RMV Extension, Saptasivanagar, Bangalore.

..... PETITIONER

AND

1 The Secretary to the Government of Andhra Pradesh, Industries & Commerce (Mines-II) Department,
Secretariat, Hyderabad,
2 The Director Mines & Geology, Government of Andhra Pradesh,
B.R.K.R. BHAVAN, Tank Bund Road, Hyderabad,
3 The Deputy Director (Mines & Geology) Government of Andhra PRadesh, Guntur,
4 The Asst. Director, Mines & Geology Prakasham District, Kurnool Road, Ongole,

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, Order or Direction more especially one in the nature of writ of Mandamus declaring the proceedings of the 1st Respondent dt. 2-7-2005 issued in Memo No. 12682/M.II(1)/2005-2 in proposing to cancel the quarry lease of the petitioner in Sy.No. 407 of an extent of 05.00 hectors of Devarapalem Village, Chimakurti Mandal, Prakasam District as illegal.

Counsel for the Petitioner: MR.P.SRI RAGHU RAM

Counsel for the Respondents GP FOR MINES AND GEOLOGY

The Court made the following :

O R D E R

The petitioner seeks a Mandamus declaring the action of the first respondent in issuing a Memo No. 12682/M.II/(1)/2005-3, dated 02.07.2005, proposing to cancel the quarry lease of the petitioner under Section 4A (3) of the Mines and Minerals (Development and Regulations) Act, 1957 (hereinafter referred to as 'the Act') in respect of the land to an extent of 05.00 hectors in Survey No. 407 of Devarapalem village, Chimakurti Mandal, Prakasham District, as illegal, void ab initio, arbitrary, untenable and contrary to the law and to set aside the same.

The case of the petitioner is that he was granted a quarry lease of Black Granite for a period of twenty years, as per the proceedings, dated 30.03.2005, and accordingly a lease deed, dated 30.03.2005, was executed in his favour by the 4th respondent, and that he is entitled to carry on quarry operations till the expiry of the lease period. While so, the 1st respondent issued a Memo, dated 02.07.2005, proposing premature cancellation of the lease on the ground of proposed construction of Ramateertham Balancing Reservoir, Chimakurthy Mandal, Prakasam District for the purpose of providing Water Supply Scheme to Ongole town and nearby villages as well and to ensure assured water for NSP canal irrigated surrounding area of Chimakurthy. On receipt of the said show cause notice, the petitioner has given a detailed reply on 18.07.2005. The petitioner asserts that the entire exercise of locating Ramatheertham Project was one in haste without following the normal procedures involved in such a project. If the lease is terminated without authority of law, the Government is liable to pay damages which would be equivalent to mitigate the loss which would be caused to the lessee and also compensation which would be much more than what normally would be mitigating damages. Therefore, the Ramatheerthan Project cannot be taken up by the Government until the lessees are compensated in terms referred above. Therefore, the petitioner came up with the present writ petition.

The learned counsel for the petitioner contends that the construction of reservoir is at the tender stage and it will take more than five years to complete the project and, as such, the issuance of notice at this stage is unwarranted and the proposed

termination of the contract of the petitioner invoking Section 4A (3) of the Act, is unconstitutional and, therefore, sought for interference of this Court.

Heard the learned counsel on either side and perused the material available on record.

The power of the Government to cancel/terminate the lease, in public interest, as enshrined under Section 4A (3) of the Act, is not in dispute and cannot be disputed.

Therefore, without going into the merits or otherwise of the contentions raised herein, I deem it appropriate to dispose of the writ petition, at the stage of admission, directing the respondents to consider the representation – explanation, dated 18th July, 2005, submitted by the petitioner and pass appropriate orders in accordance with law within a period of two weeks from the date of receipt of a copy of this order.

With the above observations, this writ petition is disposed of. No order as to costs.

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E. DHARMA RAO, J

22nd July, 2005

vp

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SECTION OFFICER

To

1. The Secretary to the Government of A.P. Industries and Commerce (Mines-II) Department, Secretariat, Hyderabad
2. The Director of Mines & Geology, Government of A.P. BRKR Bhavan, Tank Bund road, Hyderabad,
3. The Deputy Director (Mines & Geology) Government of A.P. Hyderabad,
4. The Asst. Director, Mines and Geology, Prakasham District, Kurnool Road, Ongole
5. Two C.Ds. to Govt. Pleader for Industries & Commerce, High Court

buildings, Hyderabad (OUT)

6. Two C.D. copies